



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 15

MARGER JOHNSON & McCOLLOM PC
1030 SW MORRISON STREET
PORTLAND, OR 97205

COPY MAILED

JUL 2 8 2004

In re Application of : **OFFICE OF PETITIONS**
Brian D. Earl :
Application No. 09/839,257 : DECISION GRANTING PETITION
Filed: April 20, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 9606-041 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed June 19, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 19, 2002. A Notice of Abandonment was mailed on February 6, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) an acceptable statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of June 19, 2002 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 2822 for further action as the nature of the case requires.

Frances Hicks
Frances Hicks

Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy